

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CLINTON RAY SHEPHERD, #631700

§

VS.

§

CIVIL ACTION NO. 9:06cv275

CHAIRMAN, TEXAS BOARD OF
CRIMINAL JUSTICE, ET AL.

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed pursuant to the “three strikes” provision of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

The Report and Recommendation noted the Plaintiff’s history of abuse of court. He had “three strikes” before he filed the case in order to trigger the provisions of § 1915(g). Consequently, he may not proceed unless he was “under imminent danger of serious physical injury” at the time he filed the lawsuit. *See Banos v. O’Guin*, 144 F.3d 883, 884-85 (5th Cir. 1998). The Plaintiff’s

assertion that he should be paid for work performed as an inmate does not satisfy the exception. The present lawsuit is an example of the wisdom of Congress when it passed the “three strikes” provision of § 1915(g) to stop inmates from routinely engaging in abuse of court. The Plaintiff’s argument in his objections that the provisions of § 1915(g) deny him access to court is frivolous; “it merely prohibits him from enjoying IFP status.” *Carson v. Johnson*, 112 F.3d 818, 821 (5th Cir. 1997). Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). The Plaintiff may resume his lawsuit if he pays the entire filing fee of \$350 within thirty days from the entry of this order. *See Carson v. Johnson*, 112 F.3d at 823. It is further

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **19** day of **February, 2007**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge